

November 15, 2003

From: Ken Dessernaut

**Testimony on the definition section of the proposed
Marketing Order by the Proponents Committee**

EX → 9

Sec. 991.01 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any other officer or employee of the U.S. Department of Agriculture who is, or who may be, authorized to perform the duties of the Secretary of Agriculture of the United States.

No additional comments

Sec. 991.02 Act.

Act means Public Act No. 10, 73rd Congress, as amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 48 Stat. 31, as amended).

No additional comment

Sec. 991.03 Person.

Person means an individual, partnership, corporation, association, or any other business unit.

No additional comment

Sec. 991.04 Hops and Hop Products.

(a) Hops means and includes all kinds and varieties of *Humulus lupulus* or *Humulus americanus* grown and harvested in the United States, whether loose, packaged or baled and all pellets, powder, oils, extracts and/or lupulin derived therefrom.

(b) Alpha Acid hops are those varieties that are primarily used for their bittering value. Aroma hops are those varieties primarily used for their aroma characteristics.

No additional comment

Sec. 991.05 Production Area.

Production area means all States with commercial production of hops and shall be divided into the following districts:

- (a) District 1--Washington
- (b) District 2--Oregon
- (c) District 3--Idaho and California

District 1—Washington is the largest production area. District 2 Oregon is the 2nd largest production area. District 3—Idaho and California is the 3rd largest production area. California is included in the production area even though there is very little production because they have been a much larger production area in the past and still have processing facilities that could be used for production of hops.

Sec. 991.06 Producer.

Producer is synonymous with grower and means any person engaged in a proprietary capacity in the commercial production of hops. Any producer with multiple legal entities under his/her control (e.g. common Board of directors, common ownership, common banking, etc. * * *), shall be, for voting purposes only, included under the primary entity and shall be entitled to one vote.

The proponents committee developed the one vote under the primary entity to alleviate the problems that were encountered in the previous Marketing Order. The committee felt that multiple entities with multiple votes under common ownership were not in the best interest of the industry.

Sec. 991.07 Handler.

Handler means any person who handles hops.

No additional comment

Sec. 991.08 Handle.

Handle means to prepare hops for market, acquire hops from a producer, use hops commercially of one's own production, sell, transport or ship (except as a common or contract carrier of hops owned by another) or otherwise place hops into the current of commerce within the production area or from the area to points outside thereof, except that:

- (a) The preparation for market of hops by producers, not dealers or users of the product, or;
- (b) The sale, transportation or shipment of such hops by a producer to a handler of record within the production area, and;
- (c) The transfer of excess hops by the producer to another producer to enable that producer to fill a deficiency in an annual allotment, shall not be construed as handling.

The U. S Brewer becomes the handler for production that is purchased directly from the producer.

The Producer becomes the handler for production that is purchased by a foreign brewer.

Sec. 991.09 Marketing Year.

Marketing year means the 12 months from August 1 to the following July 31, inclusive.

No additional comment

Sec. 991.10 Crop.

“Crop” means hops produced by a producer during the marketing year.

No additional comment

Sec. 991.11 Salable Quantity.

Salable Quantity means the total quantity of hops that handlers may purchase from, or handle on behalf of, producers during the marketing year.

No additional comment

Sec. 991.12 Annual Allotment.

Annual Allotment means that portion of the Salable Quantity prorated to a producer.

No additional comment

Sec. 991.13 New Producer.

The term New Producer means a person who has not grown hops prior to 2003. The term New Producer specifically excludes any person who has previously been granted Hop Commission grower number or an allotment base in any capacity, either as an individual, or as an owner, officer or operator of any business entity.

This protects the system from being abused by multiple entities under common ownership, but also allows for new producers within grower families.